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No. 07-271

FILED
SEP 25 2007
OFFICE OF THE CLERK
SUPREME COURT, U.S.

In The
Supreme Court of the United States

PRASAD BIKKANI,

Petitioner,

v.

ROTAN E. LEE, ESQ., ET AL.,

Respondents.

On Petition for Writ of Certiorari to the Ohio Supreme Court

BRIEF IN OPPOSITION

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CORPORATE DISCLOSURE STATEMENT
RULE 29.6

NorthEast Ohio Neighborhood Health Services, Inc. is an Ohio not-for-profit corporation. It is a Section 501(c)(3) tax exempt organization for federal income tax purposes. It has no parent. There is no publicly held company which owns 10% or more of its stock.

Total Health Care Plan, Inc. is an Ohio not-for-profit corporation. It is a Section 501(c)(4) tax exempt organization for federal income tax purposes. It is a wholly owned subsidiary of NorthEast Ohio Neighborhood Health Services, Inc. There is no publicly held company which owns 10% or more of its stock.

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I. RESPONDENTS

Respondent NorthEast Ohio Neighborhood Health Services, Inc. ("NEON Health Services") was formerly known as Cleveland Neighborhood Health Services, Inc. dba The Hough Norwood Clinics. NEON Health Services has been serving the medically underserved of Northern Ohio for forty years. NEON Health Services operates six community health centers in Cleveland and East Cleveland which provide primary medical and dental care to those less fortunate among us, i.e., primarily Northern Ohio's Medicaid families. NEON Health Services is a non-profit, charitable 501(c)(3) organization. It is not a Johnny-come-lately to the mission of health care to the poor.

At all times relevant hereto, Total Health Care Plan, Inc. ("Total Health") was a non-profit, 501(c)(4) Medicaid health maintenance organization ("HMO"), and Mr. Bikkani's employer. Total Health terminated Petitioner's information technology employment in June 1999. Total Health is no longer an operating HMO.

II. PROCEDURAL HISTORY

This case involves an out-of-control *pro se* litigant who has refused to comply with the trial court's Orders, the Ohio Court of Appeals' (Eighth District) Orders, the Ohio Rules of Civil Procedure, the Ohio Rules of Appellate Procedure, the Rules of Practice of the Supreme Court of Ohio, and Ohio law. Petitioner repeatedly has thumbed his nose at the judicial process since the day he filed his frivolous Complaint.

Ohio Courts have sanctioned him $17,252.21 in this litigation.

Petitioner initiated this lawsuit in 2005 -- for a 1999 termination of employment -- by filing a 30-page, 107-paragraph, six-count Complaint against fifteen defendants, including NEON Health Services and Total Health, seeking $54 million in damages. The Complaint was largely incomprehensible and lodged a plethora of claims against the defendants, including fraud, Ohio RICO violations, federal and Ohio discrimination claims based upon race, sex, national origin, and age, wrongful termination, loss of consortium, and a purported shareholder's derivative action. NEON Health Services and Total Health filed various Motions to Dismiss Petitioner's claims, and the trial court dismissed all of the claims except for his Ohio employment claims. On four separate occasions, Petitioner unsuccessfully moved the trial court to disbar and disqualify counsel for NEON Health Services and Total Health. Petitioner has a history of harassing opposing counsel with motions to disqualify and disbar. This is the way that he litigates. *See, Miles Landing Homeowners Association v. Bikkani*, 2006 WL 1781226, 2006-Ohio-3328. (Ohio Ct. App. 2006)

The trial court dismissed Petitioner's claims for a variety of reasons including the bar of the applicable statutes of limitations, lack of standing,[1] and failure to comply with Ohio R. Civ. P. 9(B). The trial court

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[1] For example, Petitioner purported to assert a shareholder's derivative action without being a shareholder of either NEON Health Services or Total Health.

subsequently dismissed Petitioner's Ohio employment claims due to his repeated discovery misconduct (*e.g.*, failing to appear for his properly noticed deposition) and refusal to comply with the trial court's Orders to provide discovery.

III. REASONS WHY PETITION SHOULD BE DENIED

THE COURT SHOULD DENY THE *PRO SE* PETITION FOR A WRIT OF CERTIORARI BECAUSE IT: (1) ATTEMPTS TO APPEAL A NON-FINAL, NON-APPEALABLE ORDER; (2) NOW RAISES CONSTITUTIONAL ISSUES THAT HAVE NOT BEEN PRESERVED FOR REVIEW BY THE SUPREME COURT; (3) FAILS TO RAISE ANY LEGAL, PROCEDURAL, OR CONSTITUTIONAL ISSUES THAT ARE SIGNIFICANT OR CUTTING-EDGE AND WHICH MERIT THE ATTENTION OF THE SUPREME COURT; (4) SEEKS REVIEW OF A SEPARATE, WHOLLY UNRELATED CONDOMINIUM CASE; AND (5) IS INCOMPREHENSIBLE.

The Petition for a Writ of Certiorari ("Petition") is, in a word, incomprehensible. Truthfully, it is beyond comprehension. It is hard to imagine a case less suitable for Supreme Court review than this one. The Order which Petitioner is apparently trying to appeal is not a final, appealable Order. Petitioner's exotic constitutional claims of Eighth and Thirteenth Amendment violations have not been preserved for review. Petitioner's attempt to argue his state law condominium case (*Miles Landing Homeowners Association v. Bikkani,* (Ohio Ct. App. 2006)) here is

baffling since that is an entirely different case involving unpaid condominium fees with different parties and different counsel. Other than the fact that the condominium case, too, is being litigated in Ohio and that Mr. Bikkani is a litigant, it bears no resemblance to the NEON Health Services and Total Health case that Petitioner asks the Supreme Court to accept for review.

Although it is far from clear, it appears that *pro se* Petitioner is trying to appeal the March 28, 2007 Order of the Supreme Court of Ohio in Case No. 2006-2302 declining jurisdiction and dismissing his appeal. *See*, Petitioner's Appendix A-1. The Supreme Court of Ohio declined to accept jurisdiction and dismissed the appeal in Case No. 2006-2302 (*pro se* Petitioner's second appeal[2] to the Supreme Court of Ohio) because it did not involve a substantial constitutional question. *Id.* That appeal simply involved an Order of the Ohio Court of Appeals (Eighth District) sanctioning *pro se* Petitioner for filing the frivolous appeal and denying his Motion to Strike certain filings of NEON Health Services and Total Health. That Order clearly does not raise federal constitutional issues or important, cutting edge legal questions worthy of consideration by this Court.

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[2] In Petitioner's first appeal to the Supreme Court of Ohio (Case No. 2006-2073), the Supreme Court awarded sanctions against him and in favor of NEON Health Services and Total Health in the amount of $7,616.03. *See*, Respondents' Appendix A. Petitioner failed to timely file, with the United States Supreme Court, an Application to Extend Time to File A Petition for a Writ of Certiorari in Case No. 2006-2073.

The reason the Supreme Court of Ohio declined to accept jurisdiction and dismissed the appeal was because *pro se* Petitioner was seeking to appeal an Order which, on its face, was not final and appealable. Both the Ohio Court of Appeals (Eighth District) and the Supreme Court of Ohio repeatedly told *pro se* Petitioner that the Order was not final and appealable, but he refused to accept that basic point of law. Despite what *pro se* Petitioner might think, a reviewing court -- including the Supreme Court of the United States -- cannot transform a non-final, non-appealable order into a final and appealable one.

Petitioner seems to be asking the United States Supreme Court to accept this case for review to vacate the Ohio Supreme Court's July 25, 2007 Order awarding sanctions of $6,864.18 against Petitioner and in favor of NEON Health Services and Total Health for his filing of a frivolous appeal in the Ohio Supreme Court. The July 25, 2007 sanctions award could not properly be brought before this Court on this Petition since Petitioner is only seeking review of the Ohio Supreme Court's March 28, 2007 Order declining to accept his underlying appeal for review. Even if the Ohio Supreme Court's sanctions award were properly brought before this Court, Petitioner fails to demonstrate how that award -- which arises under Rule XIV of the Ohio Supreme Court's Rules of Practice (frivolous appeals) -- raises significant federal constitutional issues or is a matter of great legal or procedural interest for the Nation.

Oddly, the bulk of this Petition is devoted to Petitioner's efforts to right perceived wrongs in his wholly unrelated condominium case with the Miles

Landing Homeowners Association, not with any issues he has with NEON Health Services or Total Health. Even if Petitioner could bring his condominium fee problems to the United States Supreme Court through the vehicle of this Petition -- which he plainly cannot do -- the condominium case raises pure issues of Ohio state condominium law -- not federal constitutional issues.

Ohio Courts -- and the Respondents -- have been burdened enough by *pro se* Petitioner's frivolous filings. It makes no sense to give *pro se* Petitioner another stage so that he can extend his frivolity to the United States Supreme Court. The Supreme Court of Ohio, the Ohio Court of Appeals (Eighth District), and the Cuyahoga County Court of Common Pleas all have sanctioned *pro se* Petitioner for his frivolous filings, his failure to comply with court orders, and his failure to comply with the rules of court. *See*, Petitioner's Appendices A-2; A-3; and B-1; Respondents' Appendices A; B; C. In addition to imposing monetary sanctions on *pro se* Petitioner, the Supreme Court of Ohio classified him as a vexatious litigator and prohibited him from continuing or instituting any legal proceeding in the Supreme Court of Ohio without first obtaining leave of the Supreme Court of Ohio. *See*, Petitioner's Appendix A-4 and Respondents' Appendix C. That is the reason why *pro se* Petitioner is now knocking on the door of the United States Supreme Court.

The fact that *pro se* Petitioner is continuing to pursue this frivolous course of conduct in the United States Supreme Court -- even after being classified a vexatious litigator by Ohio's highest court -- speaks for

itself. NEON Health Services and Total Health submit that the Supreme Court should not indulge *pro se* Petitioner's Petition to file more frivolous papers that waste the valuable time and resources of the Supreme Court -- not to mention the time and resources of the Respondents.

IV. CONCLUSION

It is impossible to discern what Petitioner is asking the United States Supreme Court to do in the unthinkable event that the Court were to accept this case for review. If the Supreme Court were to accept the case for review, what would be the principle of law that the Court would articulate in its decision? What relief would the Court give? More to the point, what relief *could* the Court give here? The fact that Petitioner cannot find a lawyer to represent him and that he has been sanctioned $17,252.21 by the Ohio Court of Appeals and the Ohio Supreme Court speak volumes about the lack of factual, legal, procedural, and constitutional merit to this purported appeal. To paraphrase -- and with apologies to -- William Congreve, "Hell hath no greater fury than an employee terminated."[3]

For all the foregoing reasons, therefore, NEON Health Services and Total Health urge the Court, in the strongest terms possible, to deny the Petition for a Writ of Certiorari.

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[3] William Congreve, *The Mourning Bride*, Act III, Scene 2 (1697).

Respectfully submitted,

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